

## HOUSE OF REPRESENTATIVES STAFF ANALYSIS

**BILL #:** CS/HB 569 Landfills  
**SPONSOR(S):** Agriculture and Natural Resources Policy Committee, Poppell  
**TIED BILLS:** **IDEN./SIM. BILLS:** SB 1052

	REFERENCE	ACTION	ANALYST	STAFF DIRECTOR
1)	Agriculture & Natural Resources Policy Committee	12 Y, 0 N, As CS	Cunningham	Reese
2)	Military & Local Affairs Policy Committee	9 Y, 3 N	Rojas	Hoagland
3)	General Government Policy Council	16 Y, 0 N	Cunningham	Hamby
4)	House Vote on Final Passage	116 Y, 0 N		
5)				

### SUMMARY ANALYSIS

Florida law prohibits the deposit of yard trash in lined landfills classified by the Florida Department of Environmental Protection as Class I landfills. The bill allows the disposal of yard trash in Class I landfills that use an active gas collection system to collect landfill gas generated at the disposal facility and provide or arrange for a beneficial use of the landfill gas collected. The bill also provides that a qualifying Class I landfill must obtain a minor permit modification to its operating permit that describes the beneficial use being made of the landfill gas and modifies the facility's operation plan before receiving yard trash. The bill also allows a Class I landfill to accept yard trash for mulching and as cover for municipal solid waste disposed at the landfill.

The bill has an effective date of July 1, 2010.

The bill appears to have no fiscal impact on state government; however, local governments and the private sector may be affected. See Section II of this analysis for further fiscal information.

## HOUSE PRINCIPLES

Members are encouraged to evaluate proposed legislation in light of the following guiding principles of the House of Representatives

- Balance the state budget.
- Create a legal and regulatory environment that fosters economic growth and job creation.
- Lower the tax burden on families and businesses.
- Reverse or restrain the growth of government.
- Promote public safety.
- Promote educational accountability, excellence, and choice.
- Foster respect for the family and for innocent human life.
- Protect Florida's natural beauty.

## FULL ANALYSIS

### I. SUBSTANTIVE ANALYSIS

#### A. EFFECT OF PROPOSED CHANGES:

##### **Present Situation**

According to chapter 62-701.340, Florida Administrative Code, landfills or solid waste disposal units are classified into one of three categories by the amount or types of wastes received.

- Class I landfills are those that receive an average of 20 tons or more of Class I waste<sup>1</sup> per day. There are 53 Class I landfills in Florida.
- Class II landfills (which are no longer being permitted in Florida because most facilities opt to be permitted as a Class I landfill) are those that receive an average of less than 20 tons of Class I waste per day.
- Class III landfills are those that receive only Class III waste<sup>2</sup>. Class III landfills cannot accept putrescible (likely to become putrid<sup>3</sup>) household waste. The Department of Environmental Protection (DEP) shall exempt Class III landfills from some or all of the requirements for liners, leachate controls, and water quality monitoring if the applicant demonstrates that no significant threat to the environment will result from the exemption based upon the types of waste received, methods for controlling types of waste disposed of, and the results of hydrogeological and geotechnical investigations.

Section 403.708, F.S., prohibits the disposal of yard trash<sup>4</sup> in lined landfills classified by DEP rule as Class I landfills. Yard trash that is source separated from solid waste may be accepted at a solid waste disposal area where separate yard trash composting facilities are provided and maintained. According to DEP, many local governments have expended significant money on implementing separate collection programs for yard trash. Due to the rising cost of purchasing additional land for landfill purposes, depositing yard trash in landfills has been discouraged. There are businesses that turn yard trash into mulch and other products and cities and municipalities are encouraged to recycle yard trash. Section 403.706, F.S., requires each county to implement a plan to achieve a goal of composting no less than 5% and up to 10% of organic materials that would otherwise be disposed of in a landfill.

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<sup>1</sup> Class I waste means solid waste that is not hazardous waste, and that is not prohibited from disposal in a lined landfill. (rule 62-701.200, F.A.C.)

<sup>2</sup> Class III waste means yard trash, construction and demolition debris, processed tires, asbestos, carpet, cardboard, paper, glass, plastic, furniture other than appliances, or other materials approved by DEP that are not expected to produce leachate that poses a threat to public health or the environment.

<sup>3</sup> [www.thefreedictionary.com](http://www.thefreedictionary.com)

<sup>4</sup> Yard trash is defined in rule 62-701.200, F.A.C., as vegetative matter resulting from landscaping maintenance or land clearing operations and includes materials such as tree and shrub trimmings, grass clippings, palm fronds, trees and tree stumps.

The Energy, Climate Change and Economic Security Act of 2008 established a new statewide recycling goal of 75% by 2020. The Act directed the Florida Department of Environmental Protection (DEP) to submit to the Florida Legislature a comprehensive program to achieve this goal. On January 4, 2010, the DEP submitted the required report to the Legislature.

According to the report, Florida generates more than 32 million tons of municipal solid waste annually, almost two tons per resident per year. Today, more than two decades after the Legislature passed Florida's first 30% recycling goal, Floridians collectively recycle only 28% of their solid waste. The report explores ways to change that fact through heightened public awareness, state leadership, development and expansion of recycling markets, and more investments throughout the local government and commercial sectors.<sup>5</sup>

Following receipt of the report, the 2010 Legislature passed HB 7243 to strengthen statutory provisions related to the statewide comprehensive recycling program. The bill requires state agencies, K-12 public schools, public institutions of higher learning, community colleges, and state universities, including all buildings occupied by municipal, county, or state employees and entities occupying buildings managed by the Department of Management Services (DMS), to report recycling rates to their respective counties. Exceptions are provided for local governments meeting specific population and per capita taxable income criteria.

The bill directs DMS to modify its procurement system to track the state's purchases of green and recycled materials and requires the Department of Environmental Protection (DEP) to create a Recycling Business Assistance Center (center) to develop new markets for recyclable materials. The bill outlines incremental recycling benchmarks for the state, counties, and cities that must be reached by December 31, 2020. To attain said goals, counties must include a program to recycle construction and demolition (C&D) debris. The bill requires all materials recovery facilities to report to the DEP and the counties. The DEP is:

- Directed to investigate and report to the Legislature programmatic changes that can assist in achieving the recycling goals;
- Authorized to direct counties that have not met the recycling goals to expand recycling programs to existing commercial and multifamily dwellings; and
- Required to report to the Legislature the state's recycling rates every two years.

The bill requires new commercial and multifamily construction projects, where counties have established recycling programs, to provide for recycling. The bill allows renewable energy facilities to count a certain amount of the megawatts they produce towards the state recycling goal and incentivizes renewable energy producing counties that maintain a program that recycles in a traditional manner at least 50 percent of its municipal solid waste. The bill requires the reporting of processed C&D debris and if economically feasible, the processing of C&D debris prior to disposal at permitted facilities, and exempts materials that have already been processed for recycling.

The bill reduces the scope of the solid waste management grant program, eliminating the competitive innovative grant program, and requires DEP to create a recycling pilot program for the Capitol recycling area. The bill also requires Capitol buildings to report recycling rates to Leon County, and requires that the rates be posted on DEP's website. The bill requires the Florida Building Commission to develop recycling recommendations and repeals s. 288.1185, F.S., the outdated Recycling Markets Advisory Committee.

### **Effect of Proposed Changes**

The bill amends s. 403.708, F.S., to allow the disposal of yard trash in a Class I landfill that uses an active gas collection system to collect landfill gas generated at the disposal facility and provides or arranges for a beneficial use of the landfill gas collected. A Class I landfill may also accept yard trash

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<sup>5</sup> [http://www.dep.state.fl.us/waste/quick\\_topics/publications/shw/recycling/75percent/75\\_recycling\\_report.pdf](http://www.dep.state.fl.us/waste/quick_topics/publications/shw/recycling/75percent/75_recycling_report.pdf)

for mulching and as a cover for municipal solid waste disposed at the landfill. The DEP is required to develop and adopt a methodology to award recycling credit for the use or disposal of yard trash at a Class I landfill that has a gas collection system and makes beneficial use of the gas. A qualifying Class I landfill must obtain a minor permit modification to its operating permit that describes the beneficial use being made of the landfill gas and modifies the facility's operation plan before receiving yard trash. The permittee must certify that gas collection and beneficial use will continue after closure of the disposal facility that is accepting yard trash. If the landfill is located in a county that owns and operates a compost facility, waste-to-energy facility, or biomass facility that sells renewable energy to a public utility and that is authorized to accept yard trash, the DACS must provide the county with notice of, and opportunity to comment on, the application for permit modification.

This bill also provides that the exception to the prohibition of disposing yard trash in a Class I landfill applies in all units of local government, but does not apply to a county (Miami-Dade) that currently operates under a constitutional home rule charter authorized in 1956 in a statewide referendum. This limited exception to the ban on disposing of yard trash in a Class I landfill is not intended to have a material impact on current operations at existing waste-to-energy or biomass facilities.

According to DEP, 44 landfills have active gas collection systems. There are currently about 12 active landfills with active gas collection systems that beneficially use the gas. This bill would allow those landfills to accept yard trash for disposal once a minor permit modification to their operating permit has been obtained. There are also about 32 landfills that actively collect landfill gas but do not beneficially use the gas. Some of those landfills could install a system to beneficially use the gas and obtain a permit modification to their operating permit, and those landfills would then also be allowed to accept yard trash.

The elimination of the lined landfill yard trash ban could have several beneficial impacts. Combined collection with household waste might, in some cases, result in more efficient collection and possibly fewer waste-hauling trucks on the road. This, in turn, may result in a cost savings. Decreased vehicle traffic would positively impact energy consumption and greenhouse gas emissions. In addition, when yard trash is disposed of in a landfill, it decomposes under anaerobic conditions and generates methane, a greenhouse gas that has a global warming potential 21 times greater than carbon dioxide. If this methane is captured very efficiently and utilized to produce energy, it may result in energy savings and reduced greenhouse gas emissions. However, if the methane produced by the yard trash is not captured very efficiently, total greenhouse gas emissions would be expected to increase.

Combining collection of household waste and yard trash would have a major impact on the waste management industry, and may impact local governments, landfill operators, haulers, yard trash facilities, biomass facilities, and compost/top soil producers. A study is currently underway as part of a DEP-funded research effort under contract with the University of Florida to evaluate the overall impacts of allowing yard trash disposal in some lined landfills. Allowing these landfills to accept yard trash will, most likely, increase the amount of landfill gas generated, resulting in greater efficiency and more alternative fuel produced. However, the amount of yard trash that is available for mulch or compost would be reduced. Allowing yard trash to be disposed of in Class I landfills may also impede the local government's composting requirement provided for in s. 403.706, F.S.

## **B. SECTION DIRECTORY:**

Section 1: Amends s. 403.708, F.S., to allow the disposal of yard trash in specified Class I landfills, require such landfills to obtain a modified operating permit, and require permittees to certify certain collection and a beneficial use of land fill gas.

Section 2: Provides an effective date of July 1, 2010.

## **II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT**

### **A. FISCAL IMPACT ON STATE GOVERNMENT:**

#### **1. Revenues:**

None

2. Expenditures:

None

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

See fiscal comments section below.

2. Expenditures:

See fiscal comments section below.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

Privately owned Class I landfills may benefit from the allowance of yard trash in landfills that collect the gas and reuse it or sell it. Businesses that operate yard trash processing facilities may see a reduction in the availability of yard trash. Businesses that operate Class III landfills or construction and demolition disposal facilities could see a decrease in tipping fees if yard trash is diverted to Class I landfills. Businesses that operate a Class I landfill and elect to install a system to collect landfill gas and reuse it would incur start-up costs of the system and its installation.

D. FISCAL COMMENTS:

Non-recurring Effects: If a local government is operating a Class I landfill and elects to put in a system to beneficially use landfill gas, there would be start-up costs of installing such a system.

Recurring Effects: Many local governments have expended significant money implementing separate collection programs for yard trash. In some cases the local government might save money if it could do away with separate collection and just take all the yard trash to the Class I landfill. In other cases the local government might find it more difficult or expensive to collect enough yard trash to continue supplying a mulching, or fuel-making operation.

### III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

Not applicable because this bill does not appear to require the counties or cities to spend funds or take an action requiring the expenditure of funds; reduce the authority that cities or counties have to raise revenues in the aggregate; or reduce the percentage of a state tax shared with cities or counties.

2. Other:

None

B. RULE-MAKING AUTHORITY:

None

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

### IV. AMENDMENTS/COUNCIL OR COMMITTEE SUBSTITUTE CHANGES

On March 3, 2010 the Agriculture and Natural Resources Policy Committee adopted a strike-all amendment to this bill. In addition to the original provisions of the bill, the amendment:

- Authorizes the disposal of yard trash at specified Class I landfills;
- Requires landfills to obtain a modified operating permit;
- Requires permittees to certify certain collection and a beneficial use of landfill gas; and
- Provides an effective date.

On April 30, 2010, the House of Representative concurred on the Senate amendment adopted on April 27, 2010. The amendment provided that a Class I landfill can also accept yard trash for the purpose of mulching and using the yard trash to provide landfill cover for municipal solid waste disposed at the landfill. The DACS must develop and adopt a methodology to award recycling credit for the use or disposal of yard trash at a Class I landfill having a gas-collection system that makes a beneficial use of the collected landfill gas. If the landfill is located in a county that owns and operates a compost facility, waste-to-energy facility, or biomass facility that sells renewable energy to a public utility and that is authorized to accept yard trash, the DACS must provide the county with notice of, and opportunity to comment on, the application for permit modification.